

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

CURT RICE,

Plaintiff,

v.

**CIVIL ACTION NO. 3:14-CV-93
(JUDGE GROH)**

GREEN TREE SERVICING, LLC,

Defendant.

RULE 26(f) REPORT OF THE PARTIES

On or about August 7, 2014, prior to removal of this civil action and at other times thereafter, most recently in response to this Court's First Order entered August 19, 2014 and pursuant to Fed.R.Civ.P. 26(f), counsel has conferred regarding discovery and scheduling of this matter. Each time, the following persons conferred:

Andrew C. Skinner for Plaintiff; and
Debra Lee Hovatter for Defendant.

As a preliminary matter, this civil action is an appeal of a dismissal order entered by the Magistrate Court of Jefferson County, West Virginia. Plaintiff appealed the dismissal to the Circuit Court of Jefferson County, West Virginia. Thereafter, Plaintiff, with leave of court, filed his First Amended Complaint. The parties anticipate filing cross-motions for summary judgment on the appeal.

1. **Initial Disclosures:** Pursuant to the Court's August 19, 2014 First Order, Fed.R.Civ.P. 26(a)(1) pre-discovery disclosures will be exchanged on or before November 3, 2014.

2. **Discovery Plan.**

(a) **Scope of Discovery.**

Discovery will be needed on the allegations and claims asserted by Plaintiff and the defenses asserted by Defendant.

(b) **Electronically Stored Information.**

Electronic discovery will be limited to documents and files on the respective party's current computer systems, which may be produced as paper or .pdf images. To the extent either party maintains one or more files in electronic format rather than paper, such files may be produced electronically or may be produced as paper or .pdf images. Further, no party shall be required to search or produce system backup media, metadata, or files deleted in the ordinary course prior to commencement of this litigation.

(c) **Claims of Privilege or Protection of Trial Preparation Material.**

The parties will confer on the terms of an appropriate protective order if necessary to protect any confidential or proprietary information that may be exchanged during the course of discovery. The parties will file the appropriate motion with the Court for entry of a protective order.

An inadvertent production or disclosure of materials subject to a claim of privilege or work product will not cause a waiver of such privilege or protection. In the event either party inadvertently produces documents or material subject to a claim of such privilege or protection, the producing party will identify the inadvertent disclosure and the receiving party will promptly return the materials. Each party will also produce a log of all documents withheld on the basis of

attorney client privilege or other evidentiary privilege. Disputes regarding documents withheld under a claim of privilege may be resolved based upon an in-camera submission to the Court of the withheld documents.

(d) **Discovery Limitations and Deadlines.**

Consistent with Fed.R.Civ.P. 26(d), the parties may commence discovery upon submitting this report of their planning meeting. All discovery will be completed by April 3, 2014, including all fact, expert, and supplemental disclosures. Discovery requests and responses may be exchanged in electronic format and the parties will accept service of the same with an electronic return receipt sufficient for proof of service. The parties are not required to produce paper documents unless they choose to do so or if disclosures through electronic means would not be feasible or cost effective.

Discovery shall be governed by the Federal Rules of Civil Procedure.

(e) **Expert Witness Disclosures.**

The party with the burden of proof on an issue shall designate its expert witness on or before February 3, 2015. The party without the burden of proof on an issue shall designate its expert witness on or before March 3, 2015.

3. **Case Management Items**

(a) The parties request that a pretrial conference be scheduled in the month of September 2015.

(b) The parties shall have until October 31, 2014 to join additional parties and/or amend their pleadings.

(c) Dispositive motions will be filed on or before April 30, 2015. Responses and replies must be filed in accordance with LR Civ.P. 7.02(b).

(d) To date, the parties have not discussed settlement. The parties will complete mediation on or before June 25, 2015.

(e) The final date for submitting Fed.R.Civ.P. 26(a)(3) pre-trial disclosures is August 11, 2015, with objections filed by August 25, 2013.

(f) The parties request a bench trial in October 2015 assuming this matter cannot be decided on a summary judgment motion.

4. **Local Rule 16.01 Items**

(a) This action is not suitable for designation as a complex case requiring special case management procedures and additional pretrial conferences.

(b) At this time, all material allegations of the First Amended Complaint are in dispute, unless noted otherwise in Defendant's answer. The parties will confer to prepare a list of undisputed facts to aid in presentation of their cross-motions for summary judgment.

(c) The parties do not consent to trial by a United States Magistrate Judge.

The Court's Scheduling Order Checklist is attached as Exhibit A.

Respectfully submitted,

/s/ Andrew C. Skinner
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CURT RICE,

Plaintiff,

v.

CIVIL ACTION NO. 3:14-CV-93 (Groh)

GREEN TREE SERVICING, LLC,

Defendant.

CERTIFICATE OF SERVICE

I, Debra Lee Hovatter, hereby certify that on October 1, 2014, I electronically filed the foregoing **Rule 26(f) Report of the Parties** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Andrew C. Skinner, Esq.
Skinner Law Firm
P.O. Box 487
Charles Town, WV 25414
Counsel for Plaintiff

/s/ Debra Lee Hovatter

Debra Lee Hovatter (W. Va. Bar No. 9838)